

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:

STANDARDS FOR CERTIFICATION)
FOR NEW AREA OF SPECIALIZATION)
ADMINISTRATIVE LAW)

Administrative Order
No. 2020 - 64

Pursuant to Rule 44, Arizona Rules of the Supreme Court, the State Bar of Arizona Board of Governors may make recommendations to be approved by the Arizona Supreme Court to amend and publish rules, regulations, and standards to define the authority and duties of the Arizona Board of Legal Specialization (BLS).

The Arizona Board of Legal Specialization has recommended, and the State Bar of Arizona Board of Governors has recognized Administrative Law as a new area of specialization. Therefore,

IT IS ORDERED that effective the date of this order, the attached standards for certification for Administrative Law are approved.

Dated this 13th day of April, 2020.

ROBERT BRUTINEL
Chief Justice



**STANDARDS FOR CERTIFICATION
OF LAWYERS SPECIALIZING IN
ADMINISTRATIVE LAW**

Approved April 13, 2020

Pursuant to the authority vested in the Arizona Board of Legal Specialization (“BLS”) by the Board of Governors of the State Bar of Arizona, the BLS prescribes the following standards and requirements for certification of lawyers specializing in Administrative Law in accordance with the Rules and Regulations of the Arizona Board of Legal Specialization established by the Board of Governors.

No provision herein contained shall in any way limit the right of a lawyer certified as specializing in administrative law to practice law in all fields or to act as counsel in every type of legal matter. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though the lawyer is certified as specializing in estate and trust law.

No lawyer shall be required to be certified as specializing in administrative law before that lawyer can practice law in the field of administrative law or act as counsel in any particular type of administrative law matter. Any lawyer, alone or in association with another lawyer, shall have the right to practice in the field of administrative law and to act as counsel in every type of administrative law case, even if the lawyer is not certified as specializing in administrative law.

The Board of Legal Specialization is committed to promoting racial, ethnic, and gender diversity, and to assuring the rights of the disabled within all Board of Legal Specialization programs, committees, and activities, and will periodically monitor all existing programs, committees, and activities for compliance with the goal of diversity and with assurance of the rights of the disabled in every aspect of the Board of Legal Specialization.

1. GENERAL REQUIREMENTS

- A. Active Member of the State Bar.** An applicant for certification as a lawyer specializing in administrative law shall be an active member in good standing with the State Bar of Arizona.
- B. Application.** An applicant shall be required to complete an application in a form prescribed by the BLS to furnish such additional and supplemental information as may be required by the BLS or the Administrative Law Advisory Commission, and to comply with all applicable Rules and Regulations of the Arizona Board of Legal Specialization.
- C. Recommendation by Administrative Law Advisory Commission.** An applicant shall be recommended to the BLS for certification as a lawyer specializing in administrative law when the applicant is found to have complied with the applicable standards by no less than five (5) of the ten members of the Administrative Law Advisory Commission.
- D. Expiration of Certification.** A certificate of specialization shall expire five (5) years after the date thereon; provided, however, if timely application for renewal of certification is made as provided under the Rules and Regulations of the Board of Legal Specialization, the certificate shall remain in effect until the BLS has acted upon the renewal application. Renewal of certification shall be required every five (5) years.

- E. Revocation/Suspension of Certification.** The BLS may revoke or suspend the certification of a lawyer recognized as specializing in administrative law for any reason specified in the Rules and Regulations of the Arizona Board of Legal Specialization, including but not limited to, advice from the Administrative Law Advisory Commission that the certified lawyer no longer meets the criteria for substantial involvement in the field of administrative law as set forth in Section II hereof.
- F. Fees.** Every applicant shall pay application and testing fees prescribed by the BLS.

2. STANDARDS FOR CERTIFICATION

- A. Required Period of Law Practice.** Applicants must be admitted to the practice of law for a minimum of five (5) years, of which a minimum of three (3) years immediately preceding the application must have been in the practice of law within the State of Arizona and after such admission shall have engaged in legal service (as defined in Section 1 of the Rules and Regulations of the Arizona Board of Legal Specialization) equivalent to at least 50% of a full-time law practice.
- B. Substantial Involvement in Administrative Law.** "Administrative law" is defined as the practice of law dealing with the regulatory, licensing, enforcement, and adjudicative powers of local, state and federal governmental agencies.

Substantial involvement in the practice of Arizona and federal administrative law, including but not limited to: representing clients before administrative agencies/tribunals; practicing law within administrative agencies; handling administrative or judicial proceedings involving licensing, regulation, or government benefits; litigation in federal, state or local courts relating to appeals from decisions of administrative officers and agencies; the preparation of laws, ordinances, regulations or legal instruments for, or on behalf of administrative agencies; or matters relating to the Arizona or Federal Administrative Procedure Act.

An applicant shall make a satisfactory showing, as determined by the BLS in accordance with objective and verifiable standards, based upon advice of the Administrative Law Advisory Commission, of substantial involvement in the field of administrative law during the three (3) years immediately preceding this application. This can be shown by providing such information as may be required by the BLS, including but not limited to, peer review and evidence of special competence and experience.

For purposes hereof, "substantial involvement in the field of administrative law" shall mean the engagement by the applicant in legal service (as defined in Section I of the Rules and Regulations of the Arizona Board of Legal Specialization) equivalent to at least 50% of practice time to matters in which issues of administrative law are significant factors." An applicant shall certify and demonstrate that they have practical experience in administrative law by serving as:

1. Lead advocate in a contested case;
2. Presiding official in a contested case in the capacity of: Arbitrator, Judge for any court of record, Administrative Law Judge, Hearing Officer, or Mediator;
3. Party responsible for rulemaking proceedings at the municipal, county, state, or federal level, including petitioning for rules, drafting rules, preparing comments or testifying on behalf of a client concerning proposed agency rules, and/or seeking judicial or legislative review of final rules;

4. Party responsible for providing legal advice to government entity;
5. Legal representative for a government entity;
6. Legal representative for private entity before a government entity or persons connected to government entity;
7. Party responsible for drafting requests for public information or responses to requests for public information;
8. Party responsible for conducting government entity investigations;
9. Registered lobbyist (not to exceed 15% of the 50% of practice in a single year);
10. Professor of Administrative Law or a substantially related subject;
11. Clerk or Assistant for a presiding official in contested cases;
12. Legal representative for private or government entity in procurement proceedings;
13. Party responsible for providing legal advice to elected officials and election candidates;
14. Party responsible for providing legal advice in licensing proceedings;
15. Party responsible for providing legal advice in public employment proceedings;
16. Party responsible for Arizona or Federal Administrative Procedures Act proceedings;
17. Party responsible for drafting legislation at the federal, state, county or local level;
18. Party responsible for drafting advisory opinions substantially related to administrative law by U.S. Attorney General, state Attorney General, or Bar association;
19. Attorney responsible for representing a party engaged in alternative dispute resolution to resolve an Administrative Law matter;
20. Party demonstrated to be eminently qualified through other substantial experience in the field of Administrative Law due to unusual or exceptional experience.

C. Competence and Integrity. An applicant must demonstrate honesty, integrity, professionalism as defined by the Lawyer's Creed of Professionalism of the State Bar of Arizona, and a high degree of competence in the practice of administrative law. The required degree of competence is substantially higher than that possessed by a general practitioner who regularly handles an administrative law matter. A "high degree of competence" shall mean the satisfaction of the following standards:

1. The applicant demonstrates a substantially complete knowledge of substantive law and rules of practice, procedure, evidence and ethics pertaining to administrative law practice;
2. The applicant demonstrates a high degree of skill, thoroughness, professionalism, preparation, effectiveness and judgment in the field of administrative law; and

3. The applicant satisfactorily completes a written examination in the topics specified in paragraphs 1 and 2 above. This examination shall be given at least once each calendar year at a date, time and location determined by the Administrative Law Advisory Commission. The test and its grading criteria shall be formulated at the direction of the Advisory Commission and approved by the BLS. Any applicant may retake the exam for a third time only after reapplying and paying all applicable examination fees. No applicant may retake the exam for an additional time thereafter unless upon applicant's petition to the Advisory Commission special circumstances are demonstrated which improve Applicant's prospects for successfully completing the examination.
4. That the applicant demonstrates a substantially complete knowledge of and a high degree of skill in the use of alternative dispute resolution as it applies in the field.
5. Legal competence is measured by the extent to which an attorney (1) is specifically knowledgeable about the fields of law in which the attorney practices, (2) performs the techniques of such practice with skill, (3) manages such practice efficiently, (4) identifies issues beyond his or her competence relevant to the matter undertaken, bringing these to the client's attention, and (5) properly prepares and carries through the matter undertaken.
6. Disciplinary History:
Imposition of a discipline sanction under Rule 60, Ariz. R. Sup. Ct. within the five-year period preceding the date of application may be grounds for denying, suspending or revoking certification.

The following shall not be considered in approving or denying an application for certification:

- a. Diversion,
- b. Dismissals, or
- c. Allegations of misconduct that did not result in a disciplinary charge.

D. References. With each application, the applicant will submit the names of at least seven (7) Arizona attorneys who practice in the field or judges before whom the applicant has appeared, are familiar with the applicant's practice, and not including current partners or associates. The Advisory Commission will select at least seven (7) Arizona lawyers, judges, or qualified professionals as references from cases/matters/projects submitted by the applicant to demonstrate substantial involvement. The references will be requested to provide written comments concerning the applicant not only on such specific topics as knowledge, skill, thoroughness, preparation, effectiveness, and judgment, but also concerning the applicant's ethics and professionalism. In order for the applicant's application to be approved, the Advisory Committee must receive responses from at least three (3) references that demonstrate the applicant's substantial involvement.

Names of applicants will be published in a State Bar of Arizona publication, providing an opportunity for comment, at least 30 days before consideration of applications by the Advisory Commission. Reference names supplied by the applicant shall not include members of the Board of Legal Specialization or Administrative Law Advisory Commission. The Administrative Law Advisory Commission may also consult other sources. Documentation of all matters and comments considered by the Advisory Commission shall be contained in the applicant's file.

E. **Continuing Legal Education Requirements.** Continuing legal education requirements for attorneys certified as administrative law specialists shall be 12 hours per year in one or more seminar of advanced level programming, concentrated in administrative law issues, consisting of 12 hours of substantive CLE activities in administrative law and 3 hours in professional responsibility. Credit for other educational activities may be granted by the BLS as specified in the Rules and Regulations, Section VIII.B.

3. **STANDARDS FOR RE-CERTIFICATION**

For the purposes of re-certification, the lawyer shall demonstrate continued substantial involvement in the area of administrative law as set forth in paragraph II.B(1-19) above on the application for re-certification.

These services shall be detailed on an application form, showing the nature of the legal services in which the applicant has been engaged in the past five years, and identifying the types of issues of administrative law with which the applicant has dealt and the frequency of involvement. Formal written examination for recertification shall not be required where there has been no break in certification.